

**THE CITY OF NEW YORK  
LAW DEPARTMENT**

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May 30, 2008

**BY HAND DELIVERY**

The Honorable Victor Marrero  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**USDS SDNY  
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ELECTRONICALLY FILED  
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Re: Robert Ciardiello v. City of New York, et al.,  
08 CV 3580 (VM)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the defense of the above referenced matter. I write to respectfully request an enlargement of time from the present date until July 29, 2008, to answer or otherwise respond to plaintiff's complaint on behalf of defendant City of New York.<sup>1</sup> This is defendant's first request for an enlargement of time to respond to plaintiff's complaint. Defendant apologizes for the belatedness of this submission. The undersigned contacted plaintiff's counsel, Debra Cohen, Esq., but was unable to obtain her consent to this request.

In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Plaintiff appears to be alleging that, on or about February 5, 2007, he was falsely arrested at 135 Post Avenue, New York, New York. Specifically, plaintiff claims he was meeting with a tenant in the building he owned when he observed members of the New York City Police Department enter the building and proceed to the second floor. Plaintiff maintains that he, his father, and his brother went upstairs to find out why the police were there. Upon reaching the second floor, plaintiff further maintains he "observed police officer Fernandez waving what appeared to be a lease in Plaintiff's father's face and asking his father questions about the contents of the lease." According to plaintiff's complaint, "he identified himself as an owner of the building and questioned if it was appropriate for the police officers to be involved in a contractual dispute." Plaintiff claims that Defendant Fernandez then began questioning and threatening him, his father,

<sup>1</sup> Upon information and belief, defendant Antonio Fernandez has not yet been served with process in this action.

and his brother. Ultimately, plaintiff claims he was arrested, handcuffed, and “forced to sit on public display” in the police car “for over one hour,” before he was transported to the precinct where he was allegedly held for an additional “one to two hours before being issued an appearance ticket for disorderly conduct.” According to plaintiff’s complaint, the charges against him were dismissed on or about April 17<sup>th</sup>. As a result, plaintiff now alleges false arrest, malicious prosecution, and unreasonable force. Accordingly, it is necessary for defendant to acquire as much information as possible concerning this matter in order to properly assess the case and respond to the complaint. To that end, this office is in the process of forwarding to plaintiff for execution a N.Y.C.P.L. §160.50 release so that we can access the sealed records from plaintiff’s underlying criminal prosecution, including the criminal court file, the District Attorney’s file, and even our own police records. In addition, to the extent plaintiff is claiming injuries resulting from the alleged incident, this office is also in the process of forwarding a HIPAA compliant medical release to plaintiff for his execution so that we may access his relevant medical records.

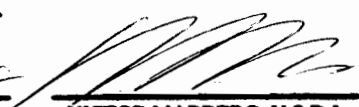
Accordingly, defendant City of New York respectfully requests that its time to respond to the complaint be extended to July 29, 2008. Thank you for your consideration of this request.

Respectfully submitted,



Jessica T. Cohen (JC 0044)  
Assistant Corporation Counsel

cc: Debra Cohen, Esq. (by first-class mail)  
Attorney for Plaintiff

Request GRANTED. The time for defendant(s) to answer or otherwise move with respect to the complaint in this action is extended to <u>7-29-08</u>	
SO ORDERED.	
<u>6-2-08</u> DATE	 VICTOR MARRERO, U.S.D.J.